

(2)

NEW NUMBER

January 17, 1980

0-021A085

Secretary  
Interstate Commerce Commission  
Washington, D.C.

11398

RECORDATION NO. .... Filed 1425

JAN 21 1980  
Date  
Fee \$ 50.00

Attn: Recordation Unit

JAN 21 1980 - 3 40 PM

Gentlemen:

INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

(a) Request for recording document

In accordance with 49 CFR §1116.4, you are hereby requested to record the enclosed security agreement and assignment. The recordation fee of \$50, and two counterparts of the original document, are enclosed with this request.

(b) Parties to the transaction

Debtor and Guarantor: Massachusetts Central Railroad Corporation  
13 Railroad Street  
Amherst, Massachusetts 01002

Secured Party: Connecticut National Bank  
888 Main Street  
Bridgeport, Connecticut 06604


(c) Description

1 Surplus NW-5, EMD 1,000 H.P. Diesel Locomotive, formerly Southern Railway No. 2100.

(d) No other property included

(e) No prior recording

(f) This is to certify that the undersigned, as Vice President of The Connecticut National Bank, has knowledge of the matters set forth herein. Please return the original document to Douglas A. Strauss, Esq., Pullman, Comley, Bradley & Reeves, 855 Main Street, Bridgeport, Connecticut 06604.

  
Albert Smith

Counterpart - C.T. Kappeler

January/7, 1980

Secretary  
Interstate Commerce Commission  
Washington, D.C.

Attn: Recordation Unit

Gentlemen:

(a) Request for recording document

In accordance with 49 CFR §1116.4, you are hereby requested to record the enclosed security agreement and assignment. The recordation fee of \$50, and two counterparts of the original document, are enclosed with this request.

(b) Parties to the transaction

Debtor and      Massachusetts Central Railroad Corporation  
Guarantor:      13 Railroad Street  
                 Amherst, Massachusetts 01002

Secured          Connecticut National Bank  
Party:            888 Main Street  
                 Bridgeport, Connecticut 06604

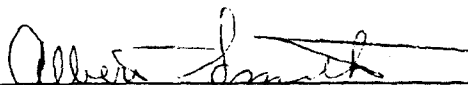
(c) Description

1 Surplus NW-5, EMD 1,000 H.P. Diesel Locomotive, formerly Southern Railway No. 2100.

(d) No other property included

(e) No prior recording

(f) This is to certify that the undersigned, as Vice President of The Connecticut National Bank, has knowledge of the matters set forth herein. Please return the original document to Douglas A. Strauss, Esq., Pullman, Comley, Bradley & Reeves, 855 Main Street, Bridgeport, Connecticut 06604.

  
Albert Smith

January 17, 1980

Secretary  
Interstate Commerce Commission  
Washington, D.C.

Attn: Recordation Unit

Gentlemen:

(a) Request for recording document

In accordance with 49 CFR §1116.4, you are hereby requested to record the enclosed security agreement and assignment. The recordation fee of \$50, and two counterparts of the original document, are enclosed with this request.

(b) Parties to the transaction

Debtor and      Massachusetts Central Railroad Corporation  
Guarantor:      13 Railroad Street  
                 Amherst, Massachusetts 01002

Secured          Connecticut National Bank  
Party:            888 Main Street  
                 Bridgeport, Connecticut 06604

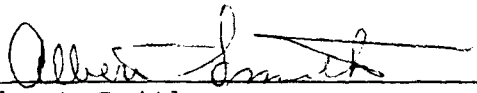
(c) Description

1 Surplus NW-5, EMD 1,000 H.P. Diesel Locomotive, formerly Southern Railway No. 2100.

(d) No other property included

(e) No prior recording

(f) This is to certify that the undersigned, as Vice President of The Connecticut National Bank, has knowledge of the matters set forth herein. Please return the original document to Douglas A. Strauss, Esq., Pullman, Comley, Bradley & Reeves, 855 Main Street, Bridgeport, Connecticut 06604.

  
Albert Smith

11398

RECORDATION NO. .... Filed 1425

SECURITY AGREEMENT AND ASSIGNMENT  
WITH INCORPORATED PROMISSORY NOTE

JAN 21 1980 - 3 40 PM

INTERSTATE COMMERCE COMMISSION

January 18 , 1980

For value received, the undersigned, MASSACHUSETTS CENTRAL RAILROAD CORPORATION, a Massachusetts corporation, (hereinafter called the "Debtor"), has promised to pay to the order of THE CONNECTICUT NATIONAL BANK, of Bridgeport, Connecticut, (hereinafter called the "Secured Party"), the sum of SEVENTY THOUSAND AND 00/100 Dollars (\$70,000) in accordance with the terms of the promissory note (the "Note") attached hereto and made a part hereof, as Exhibit A, (the terms of which Note are hereinafter referred to as the "Indebtedness").

1. Security

A. To secure the payment of the Indebtedness, and the timely performance of the covenants and agreements of Debtor as set forth herein, Debtor hereby (i) grants to the Secured Party a pledge of the following: United States Treasury Bills in the total amount of \$20,000, (the "Pledged Property") held by The Connecticut National Bank, which pledge is evidenced by the document of pledge attached hereto and made a part hereof as Exhibit B and (ii) assigns to Secured Party and grants a security interest in and to all of its rights, title and interest in and to a lease (including all options to purchase contained therein) of a certain diesel railroad locomotive (the "Leased Property") between Debtor (referred to in the Lease as "Lessee") and EVEREADY MACHINERY CO. ("Lessor") dated January 18, 1980 together with any and all interest as Debtor may have in and to the Leased Property provided that this assignment shall not impose on the Secured Party any of the Debtor's obligations under said Lease or with respect to the Leased Property. A copy of the Lease is attached hereto and made a part hereof as Exhibit C.

The Pledged Property and the above granted and assigned rights and interest are hereinafter referred to collectively as the "Collateral".

B. Debtor hereby appoints Secured Party, its successors and assigns, with full power of substitution, Debtor's true and lawful attorney or attorneys, irrevocably, with full power for it and in its name, place and stead, to ask, demand, collect, receive, receipt and give acquittances for any and all monies which may be or become due from any other action or proceedings, to make any settlement of any such claims, either in its own name or otherwise, which the Secured Party or any such successor or assignee thereof may deem necessary or desirable in order to collect or enforce the payment of any and all amounts which may be or hereafter be or become due or owing on account of the Lease pursuant to the terms of the Lease, or to enforce the performance of any and all obligations under the Lease on the part of any of the parties thereto, and Secured Party is specifically authorized to endorse and sign the name of Debtor on checks, receipts or other instruments tendered or received in payment or settlement of any such claims. Secured Party agrees not to exercise any of the rights set forth in this paragraph until and unless Debtor defaults on the indebtedness, Lease or this Agreement and is given notice of said defaulting by Secured Party.

C. Debtor shall execute and deliver any and all other papers or documents which Secured Party may reasonably request to carry out the purposes hereof, or to facilitate the enforcement of the performance of Lessor's lease obligations or the collection of monies due or to become due under the Lease.

D. Debtor warrants and represents (1) that the Lease is the valid and binding agreement of the Lessor and Lessee covering the equipment described above and constituting a part of the Lease, (2) that no other assignment or security interest has been or will be granted or made of the Lease or the Collateral assigned hereunder; (3) that the sums payable under the Lease are subject to no defenses, setoffs or counter-claims and there is no rent now due and owing pursuant to the terms of the Lease nor have there been any payments made on account of the rentals due under the Lease except as set forth in such Lease; (4) Lessee's interest under the Lease is free and clear of all liens, security interests, claims and encumbrances, except those created by this Agreement; (5) that all documents evidencing the Lease are genuine and have been executed by the Lessee with proper authority, contain no false statement or misrepresentation, and are not subject to any lien, security interest, claim or offset; (6) that no rental payments have been prepaid under the Lease except as may be set forth in such Lease; (7) that the terms of the Lease are in conformity with all laws and applicable regulations; (8) that to the best of its knowledge and belief, Lessor will be able to perform all of its obligations under the Lease; (9) the leased property shall not be used or operated except in accordance with the terms of the Lease; (10) that the execution delivery and performance of this

Agreement by Debtor has been duly authorized by all requisite corporate or other action of Debtor and does not (or will not) result in a breach of any term or condition of any other contract or agreement or in the acceleration of any other obligation of Debtor; and (11) that Debtor's principal place of business is as indicated below its signature at the end of this Agreement.

## 2. Debtor's Covenants; Events of Default.

A. Debtor agrees with respect to the Pledged Property and the Leased Property (both of which are collectively referred to herein as the "Security"): (1) to defend the Security against any claim of any interest therein; (2) to keep the Leased Property in good repair without any cost or liability to Secured Party; (3) that all accessions which are or become attached to or a part of the Security are or shall become subject to the terms of this Agreement; (4) not to permit the use of the Security in violation of any law or provision of this Agreement; (5) not to sell, assign, transfer, create a security interest in, mortgage, or in any way encumber the Security or its interest in the Lease, nor secrete, abandon or remove or attempt to remove the Leased Property except as permitted under the Lease; (6) to allow Secured Party and its representatives free access and right of inspection at all reasonable times upon 24 hours notice (except where a shorter notice is required by an emergency) and, in the event of loss or damage to the Security, to immediately send written notice thereof to Secured Party; (7) to keep the Security insured against loss by fire, theft and casualty by insurers, and in form, amount and coverage, satisfactory to Secured Party (and Debtor appoints Secured Party, Debtor's attorney in fact to endorse any loss payment or returned premium check and to make, settle and release any claim under such insurance); (8) to assign and deliver the policies or certificates thereof to Secured Party as additional security, in default of which Secured Party may, at its option, effect such insurance; (9) to pay all taxes, assessments, and charges levied on the Security or for the use, storage, maintenance or repair thereof, and upon Debtor's failure to do so, Secured Party may, at its option, pay them in which event any and all of such payments shall be secured by this Agreement, shall be payable on demand, as an obligation independent hereof, with interest at the legal rate, and shall be deemed a part of the indebtedness for all purposes of collection and the rights of Secured Party hereunder; (10) to pay all costs of filing and recording incurred by Secured Party or its agents in protecting and preserving the Security and its security interest herein created; and (11) if any part of the Security is

(or might be construed to be) attached to real estate prior to the perfection of the security interest granted herein, on demand of Secured Party, to furnish disclaimers of any interest in the Security which is or could be prior to Secured Party's interest, signed by all persons having an interest in the real estate.

B. Debtor further covenants and agrees that in case it fails to timely make any payment required to be made in accordance with the terms of the Note, or if it fails to perform any agreement it has made herein, or if any representation made by Debtor is determined by Secured Party, on proper evidence, to be materially inaccurate or false, then (1) Debtor shall be in default, (2) the entire indebtedness shall become immediately due and payable, without notice or demand, and (3) it shall be then lawful for Secured Party, and Debtor hereby authorizes and empowers Secured Party, with the aid and assistance of any persons, to dispose of the Pledged Property in accordance with the terms of Exhibit C, and, at the option of Secured Party to, (a) to enter upon the premises, where the Leased Property is located or such other place as it may be found, and take possession of the Leased Property without process of law, and (b) at any time or times (i) to dispose of the Leased Property to the extent permitted by the terms of the Lease or agreement with the Lessor and apply the proceeds thereof to the indebtedness or any other obligation arising hereunder, all to the extent permitted by and in accordance with law including the provisions of the Uniform Commercial Code as applicable in Connecticut, and (ii) to avail of any other remedy of a Secured Party under said Uniform Commercial Code or other applicable law. Debtor waives the right to interpose any counterclaim or offset of any nature or description in any litigation between Debtor and Secured Party with respect to any claim arising out of, relating to or connected with the loan secured hereby, the Collateral or the repossession thereof except as to a breach or claimed breach by Secured Party of the terms or conditions of the Debtor's Note to Secured Party or this Security Agreement. Secured Party shall not by any act, delay or omission or otherwise be deemed to have waived any right or remedy on any future occasion.

### 3. Financing Statements.

The Secured Party is expressly authorized to file a financing statement, or this document or any other appropriate document of recordation or notice with respect to this Security Agreement and Assignment, signed by the Secured Party for itself and as attorney in fact for the Debtor, in accordance with the Connecticut Uniform Commercial Code or other applicable law.

4. Debtor's Right to Possession.

Until default hereunder, Debtor shall have the right to quiet and peaceable possession of the Leased Property and the full and free enjoyment of the same, under the terms of the Lease.

5. Miscellaneous.

A. Secured Party may assign, transfer and deliver its interest in the Collateral and thereby vest in the assignee all rights and powers given to Secured Party under this Agreement and Secured Party shall thereafter be relieved and fully discharged from any liability or responsibility to the Debtor in respect of this Agreement. In the event of such an assignment, the Debtor shall not assert against the assignee any claims, defense or set-off which it may then or thereafter have against Secured Party except as premitted under this Agreement.

B. Secured Party may exercise its rights with respect to the Collateral without resorting or regard to other collateral or sources of reimbursement for liability. Secured Party shall not be deemed to have waived any of its rights against the Collateral unless such waiver be in writing and signed by the Bank. No delay or omission on the part of the Secured Party in exercising any rights against the Collateral shall operate as a waiver of such rights or any other rights.

C. Debtor shall pay to Secured Party on demand any and all expenses, including reasonable attorney fees incurred or paid by Secured Party in protecting or enforcing its rights in the Collateral or in collecting any part or all of the indebtedness.

D. This Agreement shall be binding and inure to the benefit of the heirs, personal representatives, successors and assigns of the Debtor and Secured Party. If there be more than one Debtor, the obligations hereunder shall be joint and several. This Agreement shall become effective when signed by the Debtor.

E. No waiver by Secured Party of any default hereunder shall constitute a waiver of any other default or of the same default on a future occasion, and Secured Party's rights hereunder are cumulative and not alternative.

F. The headings or captions of the various paragraphs and other divisions of this Agreement are intended for convenient reference only and neither form a part hereof nor are to be relied upon to interpret or modify any of the provisions of this Agreement.



6. Governing Law.

It is the intention of the parties that the provisions of this Agreement shall be in conformity with the laws of the State of Connecticut, and in particular the Uniform Commercial Code, which shall also govern the meaning of all terms used herein and with the laws of the United States of America to the extent that same govern the recordation of documents as notice to the world of the rights and obligations contained herein. If it should appear that any of the provisions hereof are in conflict with any statute or rule of law of Connecticut or the United States of America as aforesaid, then such provisions shall be deemed inoperative and null and void to the extent that they may conflict therewith and shall be deemed modified to the extent necessary to conform with such statute or rule of law and evidence the intention of the parties.

IN WITNESS WHEREOF, Secured Party and Debtor have caused this Agreement to be executed on or effective as of the date and year first set forth above.

DEBTOR HEREBY ACKNOWLEDGES RECEIPT OF A FULLY COMPLETED COPY OF THIS AGREEMENT.

Secured Party:

THE CONNECTICUT NATIONAL BANK

By Albert P. Smith Jr.  
Vice President

Debtor:

MASSACHUSETTS CENTRAL RAILROAD CORPORATION

By John W. Charnes  
Its President

PRINCIPAL PLACE OF BUSINESS OF  
DEBTOR:

13 Railroad Street

Amherst, Massachusetts 01002

## ACKNOWLEDGMENT

STATE OF CONNECTICUT )  
 ) ss: Bridgeport  
COUNTY OF FAIRFIELD )

On this the 16<sup>th</sup> day of January, 1980, before me personally appeared John M. Dearness, to me personally known, who being by me duly sworn, says that he is the President of Massachusetts Central Railroad Corporation that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Michael LaBella

Commissioner of the Superior Court  
~~Notary Public~~

On this the 16<sup>th</sup> day of January, 1980, before me personally appeared Albert R. Smith Jr, to me personally know, who being by me duly sworn, says that he is the Vice-President of Commercial National Bank that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Michael Lallier

Commissioner of the Superior Court  
~~Notary Public~~

EXHIBIT A

DEMAND NOTE

\$70,000.00

Bridgeport, Connecticut  
January 18 , 1980

For value received, MASSACHUSETTS CENTRAL RAILROAD CORPORATION, a Massachusetts corporation with an office and place of business in Amherst , Massachusetts (hereinafter called Maker) promises to pay ON DEMAND to THE CONNECTICUT NATIONAL BANK, (hereinafter called Bank) at its office located at 888 Main Street, Bridgeport, Connecticut the principal sum of SEVENTY THOUSAND and no/100 (\$70,000) DOLLARS, with interest from the date hereof on the unpaid principal sum, at the rate of Two (2%) percent above Bank's prime lending rate (the "Prime Rate") not in advance, together with all taxes assessed upon said sum against the holder hereof, and any costs and expenses, including reasonable attorney's fees, incurred in collection hereof or in the enforcement of, or exercise of any remedies under: i) any Guaranty of this Note, ii) any Security Agreement securing any such Guaranty of this Note, or, iii) any Pledge of property given to secure this Note, or in protecting or sustaining the lien of any of the aforesaid Security Agreements or Pledge. (The foregoing Security Agreements, Guaranties and Pledge being hereinafter referred to as the "Collateral Documents"). Prime Rate as herein used, shall mean that rate of interest charged by the Bank for short term borrowings by large credit-worthy borrowers, as such rate exists from day-to-day throughout the time during which principal shall be outstanding hereunder, all in the sole calculation of the Bank. Notwithstanding the foregoing, from and after a default hereunder or under any of the Collateral Documents, the interest rate per annum payable on the outstanding principal sum hereunder shall increase to four percent (4%) in excess of said Prime Rate.

If not sooner paid, the entire outstanding balance of principal and interest hereunder shall become due and payable, without demand ninety (90) days from the date of this Note; provided, however, that the entire balance of principal and interest outstanding hereunder shall become due and payable upon demand, at the option of the holder hereof, at any time after the date hereof.

Maker shall have the right to prepay this Note in full or in part at any time, without penalty.

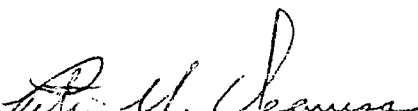
Maker shall furnish to the holder annually, within ninety (90) days following the end of the Maker's fiscal year, financial statements prepared by a certified public accountant satisfactory to the holder and in such detail as the holder may reasonably require. Maker shall also furnish to the holder annually, with the foregoing statements, a list of the names and addresses of all of its stockholders, certified by its President or Secretary.

Anything herein to the contrary notwithstanding, the entire unpaid indebtedness, both principal and interest shall become due and payable on demand at the option of the holder hereof, upon or at any time after a sale or transfer of ownership of any of the capital stock of any corporate Maker. Maker shall give prior written notice to holder hereof of any such sale, transfer or other change prior to its consummation. The foregoing provisions shall not apply in the case of any transfer by will or intestate succession.

In the event of any default in the performance of any of the other conditions of this Note, the Collateral Documents or other instruments securing this Note, all of which are hereby made a part of this Note as fully as if herein set forth, then at the option of the holder of this Note, the entire amount of principal and interest remaining unpaid shall immediately become due and payable without notice.

In the event the Maker shall default in the payment of any installment of interest or principal for fifteen (15) days, the holder may collect a "Late Charge" not to exceed an amount equal to four per cent (4%) of the aggregate of any such installment of interest and principal.

MASSACHUSETTS CENTRAL  
RAILROAD CORPORATION

By   
Peter M. Dearness  
Its President